

Stenvik

PUBLIC LAW 96-611—DEC. 28, 1980

Pneumococcal Vaccine

SOCIAL SECURITY ACT, AMENDMENT

Public Law 96-611
96th Congress

An Act

Dec. 28, 1980

[H.R. 8406]

Social Security
Act,
amendment.
42 USC 1395x.

42 USC 1395aa.

42 USC 1395y.

42 USC 1395l.

Ante, pp. 2634,
2239, 2641.

42 USC 1395cc.

To amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1861(s) of the Social Security Act is amended—

(A) by redesignating paragraphs (10) through (13) as paragraphs (11) through (14), respectively;

(B) by striking out “and” at the end of paragraph (8);

(C) by striking out the period at the end of paragraph (9) and inserting in lieu thereof “; and”; and

(D) by inserting after paragraph (9) the following paragraph: “(10) pneumococcal vaccine and its administration.”.

(2) Section 1864(a) of such Act is amended by striking out “paragraphs (10) and (11) of section 1861(s)” and inserting in lieu thereof “paragraphs (11) and (12) of section 1861(s)”.

(3) Section 1862(a) of such Act is amended—

(A) by inserting “, or, in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness” before the semicolon at the end of paragraph (1), and

(B) by inserting “(except as otherwise allowed under section 1861(s)(10) and paragraph (1))” in paragraph (7) after “immunizations”.

(b)(1) Section 1833(a) of such Act (as amended by sections 932(a)(1)(B), 934(d), and 942 of the Medicare and Medicaid Amendments of 1980) is amended—

(A) by striking out “and” before “(G)” in paragraph (1);

(B) by inserting at the end of paragraph (1) the following: “and (H) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services.”;

(C) by inserting “and to items and services described in section 1861(s)(10)” in paragraph (2)(A) after “home health services”; and

(D) by inserting “(other than for items and services described in section 1861(s)(10))” in paragraph (3) after “but in no case may the payment for such services”.

(2) The first sentence of section 1833(b) of such Act is amended by inserting “(A)” in clause (2) after “expenses incurred”, and by inserting before the comma at the end of such clause the following: “, or (B) for items and services described in section 1861(s)(10)”.

(3) Subparagraph (A) of section 1861(aa)(1) of such Act is amended by inserting before the comma at the end the following: “and items and services described in section 1861(s)(10)”.

(4) Section 1866(a)(2)(A) of such Act is amended by adding at the end the following new sentence: “A provider of services may not impose a charge under clause (ii) of the first sentence of this subparagraph with respect to items and services described in section 1861(s)(10) for which payment is made under part B.”.

SEC. 2. The amendments made by this Act shall take effect on, and apply to services furnished on or after, July 1, 1981.

Effective date.
42 USC 1395l
note.

PAYMENTS TO STATES FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. 3. Section 474 of the Social Security Act is amended by adding at the end the following new subsection:

42 USC 674.

“(d)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a), (b), and (c) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (c) such other investigation as the secretary may find necessary.

Estimates, State entitlement.

“(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

“(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.”

Pro rata share.

SEC. 4. Section 406(a)(2) of the Social Security Act is amended—

42 USC 606.

(1) by inserting “at the option of the State,” after “(B);” and

(2) by inserting before the semicolon at the end thereof the following: “, or (C) at the option of the State, under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school in grade twelve or below or regularly attending a course of vocational or technical training, other than a course provided by or through a college or university, designed to fit him for gainful employment”.

SEC. 5. (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 1382b.

“DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE

“(c)(1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits or assistance under this Act.

“(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse

Eligibility benefits.

Fair market value or interest.

42 USC 1396a.

Ante, p. 3567.
Ineligibility period.

Medical assistance, eligibility.

Effective date.
42 USC 1382b note.
42 USC 1601.

42 USC 1305
note.

28 USC 1738A
note.

furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

“(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resource or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.”

(b) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(j)(1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act.

“(2) In any case where the uncompensated value of disposed of resources exceeds \$12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

“(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).”

(c) The amendment made by subsection (a) shall be effective with respect to applications for benefits under title XVI of the Social Security Act filed on or after the first day of the first month which begins at least 60 days after the date of enactment of this Act.

SHORT TITLE

SEC. 6. Sections 6 to 10 of this Act may be cited as the “Parental Kidnapping Prevention Act of 1980”.

FINDINGS AND PURPOSES

SEC. 7. (a) The Congress finds that—

(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and

take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

National system
of locating
parents,
establishment.

(c) The general purposes of sections 6 to 10 of this Act are to—

(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

(3) facilitate the enforcement of custody and visitation decrees of sister States;

(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.

FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS

SEC. 8. (a) Chapter 115 of title 28, United States Code, is amended by adding immediately after section 1738 the following new section:

28 USC 1731 *et seq.*

“§1738A. Full faith and credit given to child custody determinations

28 USC 1738A.

“(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

Definitions.

“(b) As used in this section, the term—

“(1) ‘child’ means a person under the age of eighteen;

“(2) ‘contestant’ means a person, including a parent, who claims a right to custody or visitation of a child;

“(3) ‘custody determination’ means a judgment, decree, or other order of a court providing for the custody or visitation of a

child, and includes permanent and temporary orders, and initial orders and modifications;

“(4) ‘home State’ means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

“(5) ‘modification’ and ‘modify’ refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

“(6) ‘person acting as a parent’ means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

“(7) ‘physical custody’ means actual possession and control of a child; and

“(8) ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

“(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if—

“(1) such court has jurisdiction under the law of such State; and

“(2) one of the following conditions is met:

“(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child’s home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

“(B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child’s present or future care, protection, training, and personal relationships;

“(C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

“(D)(i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

“(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

“(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this

section continues to be met and such State remains the residence of the child or of any contestant.

“(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

“(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

“(1) it has jurisdiction to make such a child custody determination; and

“(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

“(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.”.

(b) The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738 the following new item:

“1738A. Full faith and credit given to child custody determinations.”.

(c) In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to—

(1) afford priority to proceedings for custody determinations; and

(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys' fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—

(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

(B) the court determines it is appropriate.

28 USC 1738A
note.

Ante, p. 3569.

Ante, p. 3569.

USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

SEC. 9. (a) Section 454 of the Social Security Act is amended— 42 USC 654.

(1) by striking out “and” at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (16) the following new paragraph:

“(17) in the case of a State which has in effect an agreement with the Secretary entered into pursuant to section 463 for the use of the Parent Locator Service established under section 453, to accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorized persons, and to impose and collect (in accordance with

Post, p. 3572.
42 USC 653.

regulations of the Secretary) a fee sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, to transmit to the Secretary from time to time (in accordance with such regulations) so much of the fees collected as are attributable to such costs to the Secretary so incurred, and during the period that such agreement is in effect, otherwise to comply with such agreement and regulations of the Secretary with respect thereto.”.

42 USC 651.

(b) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

“USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

42 USC 663.

“SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

“(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or
 “(2) making or enforcing a child custody determination.

“(b) An agreement entered into under this section shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

“(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or
 “(2) making or enforcing a child custody determination.

“(c) Information authorized to be provided by the Secretary under this section shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any absent parent or child shall be provided under this section.

“(d) For purposes of this section—

“(1) the term ‘custody determination’ means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modification;

“(2) the term ‘authorized person’ means—

“(A) any agent or attorney of any State having an agreement under this section, who has the duty or authority under the law of such State to enforce a child custody determination;

“(B) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court; and

“(C) any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecu-

42 USC 653.

Definitions.

tion with respect to the unlawful taking or restraint of a child.”.

(c) Section 455(a) of such Act is amended by adding after paragraph (3) the following: “except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463.”.

42 USC 655.

(d) No agreement entered into under section 463 of the Social Security Act shall become effective before the date on which section 1738A of title 28, United States Code (as added by this title) becomes effective.

Ante, p. 3572.
Effective date.
42 USC 663 note.

Ante, p. 3569.

PARENTAL KIDNAPING

SEC. 10. (a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302, the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

18 USC 1073
note.
42 USC 502.

(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code, in cases involving parental kidnaping;

(2) data relating to the number of complaints issued in such cases; and

(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.

TECHNICAL AMENDMENTS AND AMENDMENTS RELATING TO CHILD SUPPORT AUDITS

SEC. 11. (a)(1) Section 127(a)(1) of the Food Stamp Act Amendments of 1980 (Public Law 96-249), is amended by striking out “Subsection (i) of section 6103” and inserting in lieu thereof “Subsection (l) of section 6103”.

Ante, p. 365.

(2)(A) Section 408(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96-265), is amended by striking out (in the new paragraph added thereby to subsection (l) of section 6103 of the Internal Revenue Code of 1954) “(7) Disclosure” and inserting in lieu thereof “(8) Disclosure”.

Ante, p. 468.

(B) Section 408(a)(2) of the Social Security Disability Amendments of 1980 is amended—

(i) in subparagraph (A), by—

(I) striking out “(l)(1) or (4)(B) or (5)” and inserting in lieu thereof “(l)(1), (4)(B), (5), or (7)”, and

(II) striking out “(l)(1), (4)(B), (5), or (7)” and inserting in lieu thereof “(l)(1), (4)(B), (5), (7), or (8)”;

(ii) in subparagraph (B), by—

(I) striking out “(l) (3) or (6)” and inserting in lieu thereof “(l) (3), (6), or (7)”, and

(II) striking out “(l) (3), (6), or (7)” and inserting in lieu thereof “(l) (3), (6), (7), or (8)”;

(iii) in subparagraph (C), by—

26 USC 7213.

- (I) striking out "(l)(6)" and inserting in lieu thereof "(l) (6) or (7)", and
- (II) striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), or (8)"; and
- (iv) in subparagraph (D), by—
 - (I) striking out "subsection (d), (l)(6) or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(B)", and
 - (II) striking out "subsection (d), (l) (6) or (7), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6), (7), or (8), or (m)(4)(B)".

Effective date.
26 USC 6103
note.

26 USC 7213.

Effective date.
26 USC 7213
note.
Ante. p. 532.

42 USC 651.

42 USC 655.

(3) The amendment made by paragraph (1) shall take effect on May 26, 1980 and the amendments made by paragraph (2) shall take effect on June 9, 1980.

(4)(A) The first sentence of section 7213(a)(2) of the Internal Revenue Code of 1954 (relating to unauthorized disclosure of information by State and other employees) is amended by striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), or (8)".

(B) The amendment made by subparagraph (A) shall take effect on December 5, 1980.

(b)(1) Section 309 of the Adoption Assistance and Child Welfare Act of 1980 is amended by striking out "fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980" and inserting in lieu thereof "any of the fiscal years 1977 through 1980 shall be made prior to October 1, 1981".

(2) The regulations pertaining to audit criteria (as set forth in 45 CFR 305.20) and the regulations pertaining to penalty for failure to have an effective child support enforcement program (as set forth in 45 CFR 305.50), under the child support program established by title IV-D of the Social Security Act, as in effect on the date of enactment of this Act, shall remain in effect until October 1, 1981.

(c) Section 455(a) of the Social Security Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):

Dec. 5, considered and passed House.

Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments.



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